

ANNUAL REPORT OF THE JUDICIAL OFFICER

Fiscal Year 2010

The Judicial Officer issues the final decision for the Secretary of Agriculture in all cases appealed from initial decisions of USDA's administrative law judges (ALJs). The cases arise under more than 20 statutes administered by the Secretary of Agriculture. During Fiscal Year 2010, the Judicial Officer issued cases arising under the Agricultural Marketing Act; the Agricultural Marketing Agreement Act; the Animal Health Protection Act; the Animal Welfare Act; the Commercial Transportation of Equine for Slaughter Act; the Federal Crop Insurance Act; the Horse Protection Act; the Packers and Stockyards Act; the Perishable Agricultural Commodities Act; and the Plant Protection Act. The Judicial Officer also rules on motions filed by parties to proceedings and questions submitted by ALJs and issues reparation orders for money damages under the Packers and Stockyards Act and the Perishable Agricultural Commodities Act. Appeals from the Judicial Officer's decisions lie primarily to the United States Courts of Appeals, but, under some statutes, appeals lie to the United States District Courts. The Department has no right of appeal from a decision by the Judicial Officer.

The Office of the Judicial Officer is staffed by three persons: the Judicial Officer, an attorney examiner, and a legal technician, who also serves as secretary, paralegal, and administrative assistant.

The following three tables provide an indication of the production of the office and the direction of the backlog in the office. I have not included in these tables the 3 Packers and Stockyards Act reparation decisions and the 430 Perishable Agricultural Commodities Act reparation decisions issued by the Judicial Officer in FY 2010.

CASES AND MOTIONS RECEIVED – DECIDED – PENDING¹

	FY 08	FY 09	FY 10
Cases and Motions Pending Beginning of Year	12	8	7
Cases and Motions Received During Year	26	37	82
Cases and Motions Decided During Year	30	38	88
Cases and Motions Pending End of Year	8	7	1

¹Beginning in FY 2010, the numbers reflect all cases and motions received, decided, and pending. Prior to FY 2010, motions for extensions of time were not included.

NUMBER OF CASES DECIDED BY JUDICIAL OFFICER

Fiscal Year	No.
2000	35
2001	30
2002	30
2003	29
2004	37
2005	53
2006	46
2007	34
2008	30
2009	38
2010	88

INTERVAL BETWEEN REFERRAL TO JO AND JO DISPOSITION

Fiscal Year	Median Interval	Longest Interval	Number of Cases Over 4 Months	Number of Cases Over 8 Months
2000	3 wk.	6 mo. 2 wk.	1	0
2001	1 wk.	2 mo.	0	0
2002	2 wk.	3 mo. 2 wk.	0	0
2003	1 wk.	11 mo. 2 wk.	3	3
2004	1 wk.	1 yr. 5 mo.	4	4
2005	1 wk. 3 da.	1 yr. 6 mo.	3	1
2006	2 wk.	1 yr. 2 wk.	6	4
2007	1 mo. 3 wk.	11 mo. 1 wk.	6	2
2008	2 wk.	1 yr. 7 mo.	10	7
2009	1 wk. 3 da.	1 yr. 11 mo.	9	5
2010	5 days	7 mo. 3 wk.	10	0

A list of the pending cases referred to the Judicial Officer is attached as Appendix 1; a list of decisions issued by the Judicial Officer, which were appealed in FY 2010, is attached as Appendix 2; and a list of Court dispositions in FY 2010 is attached as Appendix 3.

William G. Jenson
Judicial Officer

Attachments (3)

Distribution:

Assistant Secretary for Administration
Chief Administrative Law Judge

APPENDIX 1

September 30, 2010

PENDING CASE APPEALED TO THE JUDICIAL OFFICER

In re Promiseland Livestock, LLC and Anthony J. Zeman, Respondents
OFPA 08-0134 – **Ref to JO 4/13/10**

APPENDIX 2

JUDICIAL OFFICER'S DECISIONS APPEALED

Fiscal Year 2010

1. *In re SamMazzola*, __ Agric. Dec. ____ (Nov. 24, 2009), *appeal docketed*, No. 10-3653 (6th Cir. May 28, 2010).
2. *In re Lorenza Pearson*, __ Agric. Dec. ____ (July 13, 2009), *appeal docketed*, No. 09-4114 (6th Cir. Sept. 10, 2009).
3. *In re Perfectly Fresh Farms, Inc.*, __ Agric. Dec. ____ (June 12, 2009), *appeal docketed*, No. 09-72434 (9th Cir. July 31, 2009).
4. *In re Cheryl Taylor*, __ Agric. Dec. ____ (Sept. 24, 2009), *appeal docketed*, No. 09-1270 (D.C. Cir. Nov. 15, 2009).
5. *In re Ronald Walker*, __ Agric. Dec. ____ (Jan. 13, 2010), *appeal docketed*, No. 10-9511 (10th Cir. Feb. 24, 2010).
6. *In re ZooCats, Inc.*, __ Agric. Dec. ____ (July 27, 2009), *appeal docketed*, No. 10-60109 (5th Cir. Feb. 12, 2010).

APPENDIX 3

COURT DISPOSITIONS

Fiscal Year 2010

A. Courts affirmed the following decisions issued by the Judicial Officer.

1. *In re Kathy Jo Bauck*, __ Agric. Dec. __ (Dec. 2, 2009), *appeal dismissed*, No. 10-1138 (8th Cir. Feb. 24, 2010).
2. *In re Marvin Horne*, 67 Agric. Dec. 18 (2008), *aff'd*, No. CV-F-08-1549-LJO-SMS, 2010 WL 4895362 (E.D. Cal. Dec. 11, 2009).
3. *In re Marvin Horne*, 67 Agric. Dec. 376 (2008), *appeal dismissed*, No. 1:08-cv-00402-OWW-SMS, 2008 WL 4911438 (E.D. Cal. Nov. 13, 2008), *aff'd*, No. 09-15071, 2010 WL 3679553 (9th Cir. Sept. 17, 2010).
4. *In re Lion Raisins, Inc.*, __ Agric. Dec. __ (Apr. 17, 2009), *appeal dismissed*, No. 1:10-cv-00217-AWA-DLB (E.D. Cal. June 22, 2010).
5. *In re Todd Syverson*, 67 Agric. Dec. 376 (2008), *aff'd in part, rev'd in part, and remanded*, 601 F.3d 793 (8th Cir. 2010).

B. The Supreme Court of the United States denied certiorari in the following decision issued by the Judicial Officer.

1. *In re Amalgamated Sugar Company, LLC*, 65 Agric. Dec. 252 (2006), *aff'd*, No. 06-167-S-EJL, 2007 WL 2612675 (D. Id. Sept. 6, 2007), *rev'd and remanded*, 563 F.3d 822 (9th Cir. 2009), *cert. denied sub nom. American Crystal Sugar Co. v. Vilsack*, 130 S. Ct. 280 (2009).